

Notice of Allowability**Application No.**

10/728,599

Examiner

VICKY RONESI

Applicant(s)

YANG ET AL

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1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 1/28/2008.
2. ☒ The allowed claim(s) is/are 58-77 and 102-104.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 5/20/08
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with George Snyder on 5/20/2008.

The application has been amended as follows:

- In claim 58, line 3, after "copolymer surfactant" insert the phrase, --having a number average molecular weight of from about 400 Daltons to about 200,000 Daltons--.
- In claim 58, line 10, after "a hydrophobic moiety" insert the phrase, --which is styrylphenyl--.
- In claim 68, line 9, after "a hydrophobic moiety" insert the phrase, --which is tristyrylphenyl--.
- In claim 68, lines 10-11, delete the phrase " , and the hydrophobic moiety is either an alkylphenyl or tristyrylphenyl moiety".
- In claim 103, line 4, delete the phrase "alkyl, alkylphenyl, ".

Statement of Reasons for Allowance

The present claims are allowable over the closest prior art Robinson (US 5,874,495) for the following reasons:

The present claims are drawn to a colorant composition consisting essentially of at least one pigment, water, and a copolymer surfactant having a M_n of about 400-200,000 Daltons comprising 0.01-20 wt % surfactant monomer which has a (meth)acrylic moiety joined with a hydrophobic moiety which is styrylphenyl by a bridging group consisting essentially of a poly(ethyleneoxy) moiety, wherein when the colorant composition is added to a tint-base form a latex paint, the Stormer low-shear viscosity of the latex paint is within about $\pm 10\%$ of the Stormer low-shear viscosity of the tint-base.

Robinson discloses a copolymer comprising 1-30 wt % ethylenically unsaturated nonionic biphilic monomer such as tristyrylpoly(ethyleneoxy) methyl acrylate which is used as a thickener in latex paint composition wherein the copolymer is most effective as a thickener when it has a molecular weight of 200,000-5,000,000 Daltons (a range which shares an endpoint like presently claimed but which is illustrative of the high molecular weight needed by Robinson to effect thickening), wherein thickening occurs in a latex paint when the copolymer is added in amounts of 0.05-5.0 wt % solids content. While Robinson teaches that the copolymer can be added to inorganic aqueous slurries, it fails to explicitly teach the use of a colorant composition that is added to a tint-base for a latex paint. Additionally, Robinson fails to teach or suggest that viscosity would be stabilized by adding a thickener to a tint-base. The viscosity stabilization is characterized by a change within about $\pm 10\%$ of the Stormer low-shear viscosity of the tint-base compared to the latex paint comprising both the tint-base and colorant composition. In the 1.132 declaration filed on 1/28/2008, the inventor Yong Yang states that a $\pm 10\%$ viscosity change is negligible. Therefore, given that Robinson teaches that effective thickening occurs upon the addition of the copolymer having a molecular weight of 200,000-5,000,000 Daltons to a latex

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paint, it would have not have been obvious to one of ordinary skill in the art to utilize such a copolymer to stabilize the viscosity (i.e., not thicken) a tint-base which is used to prepare a latex paint.

Thus, it is clear that Robinson does not disclose or suggest the claimed invention.

The obviousness-type double-patenting rejection over copending U.S. application no. 11/319,840 has been withdrawn because it is a provisional rejection. Per USPTO practice, when the only remaining rejection is a provisional rejection and the application is otherwise allowable, the provisional rejection is withdrawn.

In light of the above, it is clear that rejections of record are untenable and thus the present claims are passed to issue.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickey Ronesi whose telephone number is (571) 272-2701. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5/22/2008
Vickey Ronesi

/V. R./
Examiner, Art Unit 1796

/VASUDEVAN S. JAGANNATHAN/
Supervisory Patent Examiner, Art Unit 1796